

United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER OF PATENTS AND TRADEMARKS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

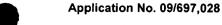
FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. APPLICATION NO. Vincent P. Stanton JR. 11926-112001 09/697,028 10/25/2000 3430 26161 . 7590 05/08/2003 FISH & RICHARDSON PC **EXAMINER** 225 FRANKLIN ST CHUNDURU, SURYAPRABHA BOSTON, MA 02110 ART UNIT PAPER NUMBER 1637 DATE MAILED: 05/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Applicant(s) STANTON, VINCENT P. 09/697.028 Advisory Action Examiner **Art Unit** 1637 Suryaprabha Chunduru -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --THE REPLY FILED 14 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. PERIOD FOR REPLY [check either a) or b)] a) The period for reply expires ____ months from the mailing date of the final rejection. b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 1. A Notice of Appeal was filed on <u>30 December 2002</u>. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal. 2. The proposed amendment(s) will not be entered because: (a) \times they raise new issues that would require further consideration and/or search (see NOTE below); (b) ★ they raise the issue of new matter (see Note below); (c) \times they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) \(\sum_{\text{they present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. Applicant's reply has overcome the following rejection(s): ____ 4. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: Amendment is not entered. 6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection. 7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: none. Claim(s) objected to: none. Claim(s) rejected: 10-16. Claim(s) withdrawn from consideration: 8. The proposed drawing correction filed on _____ is a) approved or b) disapproved by the Examiner. 9. Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). 10. ☐ Other: JEFFREY FREDMAN

PRIMARY EXAMINER





Continuation of 2. NOTE: Applicants' response to the previous advisory action is fully considered and found not persuasive. Applicants' argue that the term "flank" is fully described in the specification and is not a new limitation. Examiner fully considers the argument. The new limitation is not the term "flank", but it is the limitation, "neither the first or second primer hybridizes to the polymorphic site" which was not present in the previously examined claims, which raises new issues and requires further consideration and search because this limitation includes primers with modified nucleotide base(s) or with base analogs, or protein analogs, (which do not hybridize a polymorphic site), requires further consideration and search.